THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.294 of 2006

25th July 2006

Between:

Ch. Lakshmi, W/o K. Dakshina Murthy.

.. Petitioner.

And

The Chairman/Registrar,
A.P. State Consumer Disputes
Reddressal Commission,
Khairtabad, Hyderabad and three others.

.. Respondents.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.294 of 2006

ORDER: (Per Hon'ble Sri Justice B. Prakash Rao)

The petitioner herein, who is a practicing Advocate, filed this Writ Petition, *inter alia,* seeking for a Writ of Mandamus declaring the action of the respondents 1 to 3 in not considering her candidature to the post of lady member in the Additional District Consumer Forum-II at Visakhapatnam and thereby set aside the appointment of the fourth respondent vide G.O.P.Ms.150, dt.30.12.2005 issued by the third respondent as illegal and further to review the entire selection process.

The case of the petitioner, in brief, is to the effect that she is a practicing Advocate with Post-Graduation in Law from Andhra University with specialization in business laws. Further, she is also having varied experience in civil law and commercial laws with good practice. She further stated that in response to the notifications issued on 17.05.2004, 21.07.2004, 14.10.2004, 10.01.2004 and 24.05.2005 for the post of lady-member in the District Consumer Forum-II at

Visakhapatnam, she applied for the same. According to her, in terms of the procedure as contemplated under Section 10 of the Consumer Protection Act, a written test has to be held and subsequently selection to be processed through an interview and it is only thereafter recommendation has to be made for such appointment for the purpose of approval by the State Government. The petitioner stated that she appeared the written test held on 24.07.2005 and she succeeded there with good merit and therefore, she was asked to appear before the Selection Committee for oral interview on 26.07.2005 and accordingly she along with other two lady candidates appeared for the said interview. Basing on the best performance given by her, she expected that she would be appointed. However, to her utter surprise, as per the impugned G.O.Ms.No.150, dated 30.12.2005 the second respondent appointed the fourth respondent for the said post. According to the petitioner, it is her specific case that the fourth respondent did not attend the interview on the said date along with her. Therefore, the entire selection of the fourth respondent is totally disregarded to the mandatory procedure and even other-wise it is quite contrary to the natural justice and fair play. Hence, the Writ Petition.

In the counter affidavit filed on behalf of the first respondent, it is stated that since there is no violation of any statutory or constitutional

rights, no writ lies as such under Article 226 of the Constitution of India. Further, it is submitted that the petitioner appeared for the said written test and she was called for interview and along with her, two other candidates appeared before the Selection Committee and they were interviewed for the said post. The allegation that the fourth respondent did not participate in the interview held on 26.07.2005 was specifically denied. It is further stated that in the written test conducted on 24.07.2005, the petitioner secured 69 marks, the fourth respondent secured 67 marks and one Smt. S. Padmini secured 63 marks out of 100 marks. Therefore, on the basis of the said merit, they were all called for interview and all the three candidates including the fourth respondent appeared for the interview and the Selection Committee as contemplated under Section 10(1-A) of the Consumer Protection Act, 1986 includes President of the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad as Chairman, Secretary, Consumer Affairs, Food and Civil Supplies, Government of Andhra Pradesh and Secretary, Law Department, Government of Andhra Pradesh as its Members. It is that Selection Committee, after due consideration of the merit, found that the fourth respondent is a suitable candidate on the performance and therefore, selected her and ultimately after proper due verification and the antecedents, she was appointed. Thus, there is no violation of rule or procedure as

prescribed nor there is any violation of principles of natural justice. Hence, the Writ Petition is liable to be dismissed.

Having heard the counsel on either side and on perusal of the material available on record, the only question which arises for consideration is as to whether the appointment of the fourth respondent is valid ?

Shorn of facts as already stated above in regard to the procedure initiated for selecting a lady-member to the Additional District Consumer Forum-II at Visakhapatnam, the ultimate stress, during the course of arguments, as made on behalf of the petitioner is to the effect that the fourth respondent, in fact, did not attend the interview held on 26.07.2005 at Hyderabad before the Selection Committee and the very selection of her and the ultimate appointment made in her favour is totally vitiated and bad.

On verification of the files produced by the first respondent herein, it is seen from the record that during the selection process, the fourth respondent did appear before the Selection Committee along with other candidates including the petitioner herein and it is only thereafter due recommendation was made in favour of the fourth respondent and her name and presence is quietly figured in the record and therefore, the allegation which apparently is a bald and sweeping

one to the effect that the fourth respondent was not present during the course of interview before the Selection Committee is found not correct. Hence, the said contention stands rejected.

Coming to the very nature of the job as contemplated under the provisions of the Consumer Protection Act 1986 in respect of the Forums as created thereunder is though very adjudicatory in action but it is only a machinery created in the formative judicial tribunals for the purpose of redressal in regard to the consumer disputes. It has already been held in **LAKSHMI ENGINEERING WORKS vs. P.S.G. INDUSTRIES INSTITUTE**[1] to the effect that these Forums, State Commissions and National Commissions are not courts but are quasi judicial tribunals. Section 10 of the Consumer Protection Act, 1986 contemplates the required composition and also the qualifications of the persons to be members of such Forums. On a reading thereof, the appointment to these bodies is by selection process as contemplated thereunder by inviting the applications as such. Now, the petitioner has passed the written test but however, could not successfully come out of the selection process. In a post of this nature, primarily it cannot be said that any person who applies for such course, would have any enforceable right unlike the government employees. Therefore, any attempt through any legal process should not have been encouraged

and more so having subjected to the selection process along with other candidates, it is the decision of the Selection Committee which becomes totally un-assailable and normally the Courts in exercise of powers under Article 226 of the Constitution of India cannot set over such decisions. It is normally implied that the entire process as underwent would take not only the merit but also the various other factors keeping in view the experience and the requirements for the post for which the selection is being made. As regards the parameters are concerned, the objective assessment as made by the selection process is beyond the reach of the judicial review. As already stated, except a bald assertion that the fourth respondent did not appear for the interview, no other ground has been urged in the Writ Petition either attributing any other reason or malice in the very selection as such. Having regard to the same, we are of the opinion that the petitioner has hopelessly failed to make out any ground to warrant interference by this Court in regard to the selection made in favour of the fourth respondent for the post of lady-member of the District Consumer Forum-II at Visakhapatnam. Hence, we do not find any merits in the Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs.

B. PRAKASH RAO, J

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RAMESH RANGANATHAN, J

25th July 2006.
Chvn.

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[1] 1995 CTJ 289 (SC) (CP)